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RUEHCI/AMCONSUL KOLKATA PRIORITY 4691
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UNCLAS SECTION 01 OF 02 KATHMANDU 000717

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SUBJECT: NEPAL: CONSTITUTION TIMETABLE REVISED AGAIN--AND
AGAIN

¶11. (SBU) Summary: The Constituent Assembly's (CA's) timetable for drafting Nepal's new constitution has been delayed five times. Only four of ten constitution drafting sub-committees have presented their concept papers to the full committee. In an attempt to resolve the impasse, both the interim CA chairman and Nepali Prime Minister Madhav Nepal convened meetings of the major political parties on July 23 and 25 to prod political leaders to expedite the constitution drafting process. Despite significant ideological differences among Nepal's main political parties, their declared platforms for governing structures are surprisingly similar. End Summary

Sliding Timetables Leave Scant Room for Public Debate

¶12. (U) The Business Advisory Committee (BAC), the CA's rule-making body, met on July 16 and for the fifth time amended the calendar for drafting Nepal's new constitution. The final deadline of May 28, 2010 has not been changed, but the timetables for the ten thematic committees have progressively been pushed back, prompting concerns the eight-week window for public discussion/comment on the constitution has now been halved to just four weeks. The BAC is now requiring the thematic committees to conclude their discussion of the constitution draft by September 6 and the Constitutional Committee (CC) is scheduled to have its constitution draft completed by November 21. The CA is currently scheduled to discuss the CC's initial draft from November 22 to December 6, 2008.

¶13. (U) Only four thematic committees (Committee for the Protection of the Rights of Minorities and Marginalized Communities, Committee for Determining the Structure of Constitutional Bodies, Committee for Determining the Basis of Cultural and Social Solidarity, and the Committee for Preserving National Interests) have submitted their concept papers to the full committee. Due to committee structuring and composition, the remaining six committees have responsibility for complex, inter-connected issues that require broad-based consensus and inter-committee cooperation. Issues yet to be addressed include: contentious questions such as federalism and power-sharing authorities.

¶14. (SBU) The army integration timetable has also added a layer of complexity to the constitution drafting process.

Maoist leaders have made statements in the press that any integration of the military should be put on hold until after the constitution is finalized. Agni Kharel, NC Constituent Assembly member, told EmbOff that integration of the People's Liberation Army (PLA) should be completed before the constitution drafting is finalized. He warned that if the constitution is completed and promulgated without the integration of the PLA, unintegrated combatants might use coercion or violence to help the Maoists secure a majority of the seats in the next election.

Pressure from Above

¶15. (U) On July 23 Nepal's interim CA Chairman Subash Nemwang met with leaders of the three main political parties -- the Unified Communist Party of Nepal (UCPN-M), Nepali Congress (NC), and the Communist Party of Nepal-United Marxist Leninist (UML) -- to implore them to expedite the constitution drafting process. The major party leaders all expressed their commitment to draft the constitution on time.

In a further initiative to break the impasse, PM Madhav Nepal intervened on July 25 and convened an all-party meeting during which he asked leaders to resolve differences and return to constitution drafting. Surya Dhungel, president of the Consortium of Constitutional Experts, told EmbOff the Nepali public and international community need to exert pressure on the GON to ensure the constitution is drafted on time.

KATHMANDU 00000717 002 OF 002

Major Party Platform Organizational Sketches

¶16. (U) These are the preferred governmental models proposed by Nepal's major political parties:

NC - Bicameral legislature; Ceremonial President and Executive PM; Three-tier Judiciary; mixed member proportional representation electoral system (mixed member is defined as some directly elected, others appointed by the party); Federal Structure with autonomous states

UML - Bicameral legislature; Ceremonial President and Executive PM; Three-tier Judiciary; mixed member proportional representation electoral system; Federal Democratic Republic

Madhesi People's Rights Forum (MPRF) - Bicameral legislature; Executive President and no PM, Chief Minister; mixed member proportional representation electoral system

UCPN-M (Maoist) - Unicameral legislature; Executive President; Four-tier Judiciary (the fourth tier would be a local court that does not currently exist in the Nepali legal system); mixed member proportional representation electoral system; Federal Democratic Republic with 13 provinces

Committees for All Shapes and Sizes

¶17. (U) There are 10 CA thematic committees in addition to the main Constitutional Committee, which is comprised of all the major political party leaders who are also CA members.

Thematic Committees

- Fundamental Rights and Directive Principles Committee
- Committee for the Protection of the Rights of Minorities and Marginalized Communities
- Committee for Restructuring the State and Sharing of State Power
- Committee for Determining the Structure of Governance of State
- Committee on Judiciary
- Committee for Determining the Structure of Constitutional Bodies

- Committee on Natural Resources, Economic Rights and Sharing of Revenues
- Committee for Determining the Structure of the Legislative Body
- Committee for Determining the Basis of Cultural and Social Solidarity
- Committee for Preserving National Interests

Comment

¶8. (SBU) The Government has made incremental progress but there are only ten months to go before the May 2010 deadline and a rocky road awaits. The CA is in recess at the moment and the government has failed to fill the chairmanship of the Constitutional Committee which is further hindering momentum; the Maoists want the chairmanship and argue that as the largest party it is rightfully theirs. The final sticking point to be resolved will likely be federalism--specifically centered around devolution of power, language and resource issues, provincial boundaries, and ethnic concerns. Given the history of postponement, the current political crisis, and the intractability of complex issues, it seems likely constitution drafting timetables will continue to slip. An equally troublesome development is the shrinkage of time for public debate and discussion on the constitution, which could translate into lack of public support and a loss of legitimacy for Nepal's constitution.

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